

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|-------------------------------|---|---------------------------|
| MARTIN BROOKS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CASE NO.: 2:18-cv-565-GMB |
| |) | [wo] |
| ALABAMA STATE DEPARTMENT |) | |
| OF EDUCATION, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OPINION AND ORDER

Now before the court is Plaintiff Martin Brooks’ Motion for Temporary Restraining Order (“TRO”), Motion for Injunctive Relief, and for Immediate Hearing. Doc. 22. Pursuant to 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73, the parties have consented to the jurisdiction of the undersigned United States Magistrate Judge. Docs. 16 & 17.

Rule 65(b) of the Federal Rules of Civil Procedure governs requests for TROs. It provides, in pertinent part, that a court may issue a TRO “without written or oral notice to the adverse party or its attorney only if . . . specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Brooks has not satisfied the requirements for Rule 65(b) relief.

First, the TRO motion is deficient because Brooks has not provided the requisite affidavit or verified complaint required by Rule 65(b). Second, Brooks has not shown that

immediate and irreparable injury will occur from the short delay required to permit the defendants to respond to the allegations.

For these reasons, the motions for a TRO and immediate hearing will be denied, and the court will consider Brooks' motion for an injunction as a motion for a preliminary injunction, a ruling on which will be reserved until such time as the defendants have been given an opportunity to respond to the allegations.

Accordingly, it is ORDERED as follows:

(1) The Motion for Temporary Restraining Order and for Immediate Hearing (Doc. 22) are DENIED.

(2) The defendants are given until **August 28, 2018** to respond to the motion for preliminary injunction. Brooks shall file a reply on or before **September 4, 2018**.

DONE this 20th day of August, 2018.



GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE